IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 2270 of 2005

Between:

K.Deva Reddy, S/o Nagi Reddy, 59 years,

Formerly Inspector of Police, Police Control Room, Kadapa.

Now retired and residing at 40-313-2,

Bhagyanagar, Kurnool Town, Kurnool.

..... PETITIONER

AND

1. The Superintendent of Police, Chittoor,
2. The Inspector General of Police, Law and Order, Rayalaseema Region, A.P.Hyderabad.
3. The Principal Secretary, Home Department, Government of A.P. Secretariat, Hyderabad.
4. The Superintendent of Police, Kadapa.

(R-4 is pleaded as per Court order dated 25-01-2005 in WPMP No.28468 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one iIn the nature of writ or certiorari quashing the orders of the Hon'ble A.P.Administrative Tribunal dated 3-11-2004 in O.A.No.3676 of 2003 along with the order of the first respondent dated 7-05-2001 in Ref.C.No.A8/PR/8589/339/2000 dated 7-5-2001 in pursuance of the disciplinary proceedings consequently directing the 4th respondent to refix the pension of the petitioner by restoring the postponed and withheld increments for two years.

Counsel for the Petitioner: MR A.Hanumantha Reddy.

Counsel for the Respondent Nos. 1 to 3 : G.P. for Home

The Court at the stage of admission made the following :

O R D E R: (Per the Hon'ble Sri Justice G.Bikshapathy)

The writ petition is filed assailing the order dated 03-11-2004 passed by the learned Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') in O.A.No.3676 of 2003.

2. It is stated that the petitioner was working as Inspector of Police in Kadapa. The 1st respondent herein by an order
07-05-2001 awarded punishment of deferment of increment for two years without effect on future increments and pension. The said order came to be challenged before the Tribunal in O.A.No.3676 of 2003. The learned Tribunal however, refused to interfere with the order of the 1st respondent herein in Rc.No. 8/PR/8589/339/2000 dated 07-05-2001 and accordingly dismissed the said O.A. Aggrieved by the same the present writ petition has been filed.

3. Learned counsel for the petitioner raised two formidable submissions. He contends that the punishment imposed on the petitioner has a noncumulative effect and that his pension has to be released duly restoring one increment which was ordered to be withheld without cumulative effect by the 1st respondent and also the increment which fell due on 01-08-2002 ought to be released.

4. We have heard the learned Government Pleader.

5. As far as the order of punishment imposed by the 1st respondent herein is concerned, the Tribunal held that there are no grounds to interfere with the said order and accordingly dismissed the same.

6. We have perused the material available on record.

7. Coming to the question of fixation of pension consequent on the punishment imposed, the learned counsel for the petitioner would submit that the pension of the petitioner is being fixed without giving two increments viz., one increment which should be restored back on the date of retirement and another increment which ought to have been released in August 2002. According to the learned counsel for the petitioner the date of order of punishment is 07-05-2001 and the increment that was falling due on 01-08-2001 was withheld as a measure of punishment in pursuance of the order of punishment dated 07-05-2001. Therefore, the next increment, which fell due on 01-08-2002, ought to be released without reference to the punishment, as the punishment imposed on the petitioner was non-cumulative one. However, the petitioner was retired from service on 30-06-2003 and the operation of the period of punishment is for a period of two years i.e., up to 07-05-2003.

8. The question that calls for consideration in this writ petition is as to whether the fixation of pension can be considered at this stage.

9. The subject matter of dispute before the Tribunal was only with regard to the validity of the punishment. Be that as it may, the petitioner was retired from service on 30-06-2003. He is entitled to restoration of one increment which was withheld by an order dated 07-05-2001 and also the increment which fell due in the normal course on 01-08-2002. We are sure that the authorities concerned will take into consideration the said fact while fixing up the pay of the petitioner.

10. With the above observation, the writ petition is disposed of at the stage of admission. No costs.

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G.BIKSHAPATHY, J

B.SESHASAYANA REDDY, J

Dt: 25-01-2005.

MjI/SJ

To,

1. The Superintendent of Police, Chittoor,
2. The Inspector General of Police, Law and Order, Rayalaseema Region, A.P.Hyderabad.
3. The Principal Secretary, Home Department, Government of A.P. Secretariat, Hyderabad.
4. The Superintendent of Police, Kadapa.
5. 2 CCs to the G.P. for Home, High Court Buildings, Hyderabad. (OUT)
6. 2 CD copies.